



3727

Serial No.: 09/215,928  
Attorney Docket No.: 10541-167

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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6/19/01

#4

Group Art Unit: 3727 )  
Examiner: Tri M. Mai )  
Inventor: Maddox et al. )  
Serial No: 09/578,810 ✓ )  
Filed: May 24, 2000 )  
For: SEALING BLADE )

RESPONSE TO  
RESTRICTION  
REQUIREMENT

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Commissioner of Patents and Trademarks  
Washington, DC 20231

Dear Sir:

This communication is a response to the Office Action, Paper No. 3, mailed on March 13, 2001. Please reconsider the above-identified application in light of the following remarks.

**ELECTION OF INVENTION**

The Examiner has required the selection of one of three claim sets pursuant to 35 U.S.C. 121, and has grouped the claims as follows. Group I consists of claims 1-7, drawn to a container; Group II consists of claims 8-14, drawn to a molding

apparatus; and Group III consists of claims 15-20, drawn to a method for forming a sealed container.

For the prosecution of this application, the applicant elects Group II.

### **TRAVERSE OF RESTRICTION REQUIREMENT**

Applicants respectfully traverse the Restriction Requirement for the following reasons:

#### **RESTRICTION OF INVENTIONS I AND II**

Inventions II and I are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another materially different apparatus (MPEP §806.05(g)). Examiner asserts that the container can be made by a plurality of sealing devices, and that the apparatus can be used to provide a seal having one indentation.

The Examiner asserts that the container can be made by a plurality of sealing devices, but has failed to provide an example of a device other than the claimed apparatus which will do so. The burden is on the examiner to provide an example, but the example need not be documented. (MPEP §806.05(g)). Further, the Examiner asserts that the apparatus can be used to provide a seal having one indentation. Referring to Claim 8, the apparatus as claimed includes "a pair of spaced apart blades" which form the pair of indentations on the container as described in Claim 1.

Given the limitations of Claim 8, it would not be possible to form container with only one indentation.

RESTRICTION OF INVENTIONS I AND III

Inventions I and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP §806.05(f)).

The Examiner asserts that the product as claimed can be made by a different process, melting a portion of the container to form a seal. Applicants respectfully point out that in order to form a molecular seal as claimed, the material must be in a semi-melted state. Claim 15 inherently includes either forming the molecular seal while the material is still semi-melted, or bringing the material back to a semi-melted state before collapsing the parison. If the material is not in a softened, semi-melted state, a molecular seal will not form. To form a molecular seal, the parison must be melted to this extent. It cannot be completely melted or else no shape would be held by the parison.

RESTRICTION OF INVENTIONS II AND III

Inventions II and III are related as process and apparatus for its practice. The inventions are distinct if it can be shown either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. The Examiner asserts that the apparatus as claimed can be used to seal any container

without using the step of reducing the pressure as set forth in claim 15.

The applicants respectfully point out that the process cannot be practiced without the step of reducing the pressure prior to sealing the container. The air that is blown into the parison to expand the parison within the mold is at extremely high pressures (several hundred p.s.i), which the resulting product (the container) would not be able to withstand once removed from the mold. If the step of reducing the pressure was removed from the process described in Claim 15, the container would immediately explode or burst upon removal from the mold. Therefore, the apparatus cannot be used to seal a container without the step of reducing the air pressure as set forth in Claim 15.

#### CONCLUSION

The applicants have elected Group II, consisting of claims 8-14, drawn to a molding apparatus for the prosecution of this application. However, in view of the preceding remarks, the Applicants respectfully submit that the Restriction Requirement has been successfully traversed and request that the Examiner withdraw the Restriction Requirement accordingly.

If the Examiner believes that personal contact would be advantageous to the disposition of this case, the Applicants respectfully request that the Examiner contacts the Attorney of the Applicants at the earliest convenience of the Examiner.

Respectfully submitted,

By: 

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